



January 8, 2001

**Kenneth L. Lay**  
*Chairman and  
Chief Executive Officer*

**Enron Corp.**  
P. O. Box 1188  
Houston, TX 77251-1188  
713-853-6773  
Fax 713-853-5313  
*Kenneth.Lay@enron.com*

Clay Johnson  
Executive Director  
Bush-Cheney Transition Team  
1800 G Street  
Washington, DC 20270

Dear Clay:

Congratulations on the speed with which you, Dick and others have been able to place high quality individuals in every cabinet post. It is a clear early indicator of a President and a Vice President-Elect who know how to delegate, make decisions and get things done.

I presume you will soon be focusing on members for the various regulatory agencies. One key regulatory agency is the Federal Energy Regulatory Commission and its role is even more important given the recent natural gas and electricity problems.

I am attaching a one-page description of the kind of individuals we think you should be looking for. With those criteria in mind, I'm also attaching a list of potential candidates that we think would do an excellent job on the Federal Energy Regulatory Commission.

I would be happy to discuss this with you or provide any additional information that might be helpful.

Sincerely,

A handwritten signature in dark ink, appearing to be "Ken", written in a cursive, stylized font.

cc: Vice President-Elect Dick Cheney

Attachments (2)

Endless possibilities.™

000980

## FERC Commissioner Qualifications

We support FERC Commissioners who will embrace a regulatory approach that fosters competitive markets that rely on bilateral contracts to avoid the volatility of short-term spot markets. Any candidate should be a strong supporter of the need for FERC to continue its leadership role in deregulating the electric industry in order to benefit consumers. Such a candidate should support steps to ensure liquidity in energy markets with price certainty for ultimate physical delivery of energy known in advance. Ending residual discrimination in wholesale electricity markets, such as the current native load exception, should be among a candidate's primary objectives. Also essential to competitive electric markets is building a commission committed to placing all transmission in the U.S. under the Commission's jurisdiction. A candidate should support the Commission exercising the exclusive jurisdiction over the reliability of the bulk power system. To this end, a strong candidate is someone committed to working with all the stakeholders and who understands and believes in competitive, transparent and unhindered energy markets. Candidates with a good working relationship with Congress, specifically the Senate Energy and Natural Resources Committee and House Commerce Committee, would be advisable, particularly in the Chairman.

In summary, we believe the following criteria should reflect the profile of a FERC Commissioner:

- Understands the need for Federal leadership and authority to ensure well functioning and efficient interstate bulk power markets;
- Well grounded in free markets (free energy and financial markets), open access, orderly rules of the road;  
Proponent of Commission action to end residual discrimination in wholesale electric markets;  
Willingness to abolish current native load preference under current tariffs;
- Recognized leader and articulate spokesman of energy and financial issues;
- Advocate of secure, competitive and responsible sources and production of energy that serves the needs of the public;
- Strong manager;
- Committed to the Commission's role in information collection, analysis and research on energy data & prices which helps develop informed decisions on long term energy supply and use;
- Comfortable relying on market forces to ensure the provision of safe, reliable and abundant energy (gas and electric).

000981

## Specific Candidates

### Strong Candidates

<b>Pat Wood</b>	Current Chairman of the Texas Public Utility Commission who worked as an aide to FERC Commissioner Langdon in the early 1990s. Supports free markets. Wood was instrumental in implementing a plan that resulted in the successful deregulation of the Texas electricity market. The Texas experience provides a favorable contrast to California's failed effort.
<b>Nora Brownell</b>	Brownell currently serves as Pennsylvania PUC Commissioner. She is a former deputy executive assistant to Gov. Richard Thornburgh and a banking executive. She supports free markets and was the swing vote enabling Pennsylvania to open its electric markets to competition. Pennsylvania's program is widely regarded as the nation's most successful.
<b>Cathy VanWay</b>	Current counsel to the House Commerce Committee under Congressman Tom Bliley. Cathy has worked for the Committee in this capacity for both the majority and minority. Prior to working for the Committee, Cathy worked for Verner Liipfert. She has drafted pro-free market electricity restructuring legislation.
<b>Phil Moeller</b>	Currently works on energy issues for Senator Slade Gorton. He is not an attorney, but aided in crafting electricity restructuring legislation as a staffer in the Washington State Legislature. Has a Northwest perspective on the hydro-licensing issue. He has drafted pro-free market electricity restructuring legislation.
<b>Richard Glick</b>	Currently serves as Senior Policy Adviser for Electricity and Energy in the Office of the Secretary of Energy who worked closely with stakeholder groups in attempting to reach consensus on and pass electricity restructuring legislation. He is a former staff member for Senator Dale Bumpers and also worked for Verner Liipfert. He has drafted pro-free market electricity restructuring legislation.
<b>McLane Layton</b>	Layton currently serves as counsel on energy issues to Senator Don Nickles. Formerly worked as counsel at the Department of Interior. She has drafted pro-free market electricity restructuring legislation.
<b>Bill Scherman</b>	Former General Counsel at FERC under Martha Hesse where he was pro free markets.

## ENRON MEMORANDUM

TO: Ken Lay  
cc: Steve Kean  
Richard Shapiro  
FROM: Linda Robertson  
DATE: February 12, 2001

You are scheduled to call Clay Johnson today about Commissioner vacancies at FERC. The purpose of this memo is to provide you an update on pending candidates and Enron's discussion with those candidates.

There are presently two vacancies on the Commission. Because only three Commissioners can be members of the same political party and at present there is only one Republican Commissioner, the Bush Administration can appoint two Republicans to the open seats. In addition, the five year term of the three current Commissioners expire: Chairman Hebert (R) 6/30/04; Breathitt (D) 6/30/02; and Massey (D) 6/30/03.

Enron has strongly supported Pat Wood, a Republican, as Commission Chairman. At present, our information in Texas and DC indicates that Mr. Wood intends to accept an appointment by the Bush Administration but has indicated that he would accept the job after he has an opportunity to implement certain parts of the Texas deregulation effort. It is expected that Mr. Wood would be available for a FERC position mid-year.

A number of candidates are said to be under consideration for the second Republican seat at FERC. Enron has on several occasions discussed with transition and now Bush Administration officials the candidacy of Nora Brownell as our first pick for the second open seat. As of last week, we heard reports that, while Brownell is under consideration, mostly on the strength of Enron's interest, she is not supported by Governor Tom Ridge. Governor Ridge is said to be pushing the candidacy of Chairman John Quain (PA, PUC). Although Enron does not favor Mr. Quain's appointment to FERC, we have talked with Bush Administration officials about a possible White House energy position for him.

→ Other candidates under various stages of consideration (and we believe that most of them have "interviewed" with Clay Johnson) for the second seat are: McLane Layton, Drue Pearce, Judy Walsh, Joe Kelliher, and Joe Garcia. All of these officials are Republicans, save Mr. Garcia. Ms. Layton is supported by Senator Don Nickles. On Friday, at her request, you sent a letter to Vice President Cheney speaking favorably of her qualifications for FERC, though the letter did not explicitly endorse her candidacy. Enron officials have interviewed Joe Garcia, State Senator Drue Pearce (Alaska), and McLane.

It is difficult to gage the strength of a candidate on interviews of this nature, however, we did come away from these conversations with the belief that Drue Pearce was the most forthcoming in our conversations on access issues important to Enron. Sources outside of Enron note that she has no record on these issues, to speak of, and that she has little

EC 000123909

→ technical understanding of the electric industry. Moreover, although Joe Kelliher has not talked directly with Enron about his interest in a FERC position, we have recently worked productively with Joe Kelliher in his new position as Senior Advisor to Secretary Abraham. Rep. Joe Barton is said to be strongly pushing Mr. Kelliher, his former staffer, for a FERC seat.

In your conversation today, we recommend that you express to Mr. Johnson that our first preference for the second seat continues to be Nora Brownell. (We are working with our lobbyists in Pennsylvania to mitigate the Governor's alleged concerns with her candidacy.) We also recommend that you explore with Clay possible backup candidates. You and other Enron officials have recently talked to Joe Garcia as a possible "second" Enron choice for the second seat. We understand those conversations have been somewhat reassuring and that his record in Florida does contain encouraging signals on access issues. One argument Mr. Garcia has made is that the Bush Administration and Enron are better off putting him in one of the existing open Republican seats because this move would free up an additional Republican slot because Mr. Garcia is an Independent. His thinking is that once the Breathitt seat opens in 6/02 a Republican could be appointed because, as an Independent, he does not count against the "no more than three" from one party rule. He further argues that this gambit has a better chance of success if he is appointed now for a Republican seat rather than later for the Breathitt Democratic seat, which in theory Senator Daschle should have a say in appointing. His argument has some merit; there is logic to his sequencing suggestion. However, his argument falls apart if one assumes that Chairman Hebert would leave the Commission upon Pat Wood's selection as Chair, a not too difficult conclusion to reach. Chairman Hebert's likely departure would open yet another Republican seat, which an independent could be appointed to later this year. Under this alternative sequencing, the Breathitt seat could still be converted to a Republican seat.

Where this leaves us in terms of our "backup" candidate to Nora Brownell is picking from a group of candidates about whom we feel tepid at best. **In light of this situation, we strongly recommend that the most important point to make with Mr. Johnson is not pitching a particular backup candidate, although we can do that as well, but instead pitching the need for the Bush Administration to extract a very firm commitment to move forward on open access issues at FERC from their intended nominee.** If we feel comfortable that such a commitment is made, any of the backup candidates discussed above might work.

*H:Linda's Memos/2-12-01 FERC Commissioners*